

instant application. The reasons for each of the above requests are set forth in detail below.

No fee is believed to be required for the filing of the Request to Vacate Notice Mailed June 14, 2004 and the Renewed Withdrawal as Attorneys or Agents. A check in the amount of \$130.00 to cover the requisite petition fee for the filing of the Petition to Expunge is attached hereto.

BACKGROUND

The above-identified application was filed with the United States Patent and Trademark Office (USPTO) on January 14, 2004 and is a continuation of parent application Serial No. 09/628,464, filed July 31, 2000 (the parent '464 application). The Inventor, Sung Lee, assigned the rights of the parent '464 application to Dial2Go, Inc., for which Inventor Lee is the President and CEO. The present application was filed in an effort to prevent irreparable loss of patent rights by the Inventor and Assignee.

On May 18, 2004, A Request For Withdrawal as Attorneys or Agents (37 CFR §§ 1.26 And 10.40(c)(1)(iv)) and a Response To 'Notice To File Missing Parts' were filed with the USPTO on May 18, 2004. The Request for Withdrawal identified, inter alia, the last known address of inventor Sung Lee and the last known address of Assignee, Dial2Go, Inc. The Response to Notice to File Missing Parts was filed in response to a Notice to File Missing Parts Of Nonprovisional Application mailed by the USPTO on April 4, 2004, which included a copy of the executed declaration filed in the parent '464 application and the requisite \$65.00 small entity surcharge for the late filing of the declaration.

On June 14, 2004, a Notice Regarding Change Of Power Of Attorney, **for which the current request to vacate is directed**, was mailed by the USPTO. This Notice indicates that (1) it was mailed “in response to the Power of Attorney filed 05/25/2004”, **for which the current request to expunge is directed**, and (2) “[t]he withdrawal as attorney in this application has been accepted.” The Notice also indicates that “[f]uture correspondence will be mailed to the new address of record”, **which is an address and an legal entity that is neither an assignee or otherwise associated with the instant application.**

During a telephonic discussion between, Brian W. Brown, a Registered Patent Agent with the Firm of Morgan & Finnegan, L.L.P., Reg. No. 47,265, and Randolph Reese, Special Program Examiner, Technology Center 3600, USPTO, on July 30, 2004, Mr. Reese brought to Mr. Brown’s attention that two separate Requests for Withdrawal as Attorneys or Agents had been filed in the present application, i.e., the correct Request for Withdrawal as Attorneys or Agents related to the 10/757,806 application and an erroneous titled May 25, 2004 Request for Withdrawal as Attorneys or Agents. Mr. Reese also informed Mr. Brown that current problem, for which Counsel in now seeking to correct, arose do to the fact that the erroneous May 25, 2004 Request for Withdrawal identified two unrelated application Serial Numbers therein. The Serial Number (10/757,806) of the present application was identified on the first page of the erroneous May 25, 2004 Request for Withdrawal, but the Serial Number of another correct unrelated application was identified in the page header. Mr. Reese furthermore identified that all of the remaining bibliographic information identified in the May 25, 2004 Request for Withdrawal related to the correct second application.

As a result of the erroneous May 25, 2004 Request for Withdrawal, the USPTO approved the withdrawal request and changed the correspondence address of record to an entity and an address that are completely unrelated to this application in lieu of either the correct inventor's last known address of:

Sung Lee
12 Fox Run Drive
Englewood, New Jersey 07631, or

the last known address of the Assignee of:

Dial2Go, Inc.
2 University Plaza Drive, Suite 201
Hackensac, New Jersey 07601.

The USPTO has not taken any action with respect to the correct May 18, 2004 Request to Withdraw as Attorneys or Agents.

REQUEST TO VACATE NOTICE MAILED JUNE 14, 2004

On the basis the erroneously filed May 25, 2004 Request for Withdrawal as Attorneys or Agents was processed by the USPTO, the June 14, 2004 Notice Regarding Change of Power of Attorney erroneously changed the correspondence address of record to a completely unrelated address. As such, Counsel, on behalf Applicant, hereby request that the June 14, 2004 Notice of Regarding Change of Power of Attorney be **VACATED** and the originally empowered attorney or agents of record be restored. This action will place the application back into its status at the time the correct May 18, 2004 Request for Withdrawal as Attorneys or Agents was filed.

PETITION TO EXPUNGE

In view of the above discussion and subsequent to the June 14, 2004 Notice Regarding Change of Power of Attorney being vacated, Counsel, on behalf of Applicant, hereby request that the erroneous May 25, 2004 Request for Withdrawal as Attorneys or Agents (37 CFR §§ 1.26 and 10.40(c)(1)(iv)) be expunged from the instant application pursuant to 37 CFR § 1.59(b). Counsel believes that failure to expunge the subject May 25, 2004 Request for Withdrawal as Attorneys or Agents could result in irreparable harm to either (1) the Applicant and/or Assignee of the instant application or (2) the applicant and/or assignee of the other unrelated application to which the erroneous May 25, 2004 Request for Withdrawal as Attorneys or Agents was intended and identified therein. Counsel will retain a copy of the subject request for Withdrawal as Attorneys or Agents for the period of any patent that may mature from the instant application.

RENEWED WITHDRAWAL AS ATTORNEYS OR AGENTS

Subsequent to the erroneous May 25, 2004 Request for Withdrawal as Attorneys or Agents being vacated and consideration of the above Petition to Expunge, Counsel requests permission to withdrawal as attorneys or agents in the above-identified application.

As discussed above, the above-identified application was filed with the United States Patent and Trademark Office (USPTO) on January 14, 2004. The instant application is a continuation of parent application Serial No. 09/628,464, filed July 31, 2000 (the parent '464 application). The Inventor, Sung Lee, assigned the rights of the parent '464 application to Dial2Go, Inc., for which Inventor Lee is the President and

CEO. The present application was filed in an effort to prevent irreparable loss of patent rights by the Inventor and Assignee. No time period for reply is currently running in the instant application.

On April 8, 2003, a letter reporting Counsels' receipt of an Updated Filing Receipt was mailed to Inventor Lee at the last-known address of his company and Assignee Dial2Go, Inc. identified below. The April 8, 2003 letter was, however, returned by the United States Postal Service as undeliverable and unable to forward. Subsequent attempts by Counsel to reach or locate Inventor Lee have been unsuccessful, and his absence has rendered it unreasonably difficult for Counsel to effectively represent Inventor Lee, or Assignee Dial2Go, Inc. in this matter.

On July 16, 2003, for example, a non-final Office Action in the parent '646 application was mailed by the USPTO setting forth a three-month shortened statutory time period for response, which initially expired on October 16, 2003. Counsel, received no communication of instruction of any kind from either Inventor Lee, or any other authorized authority acting on behalf of Assignee Dial2Go, Inc., for responding to the outstanding Office Action. On this basis, Counsel was unable to continue prosecution of the parent '464 application and directly respond to the outstanding Office Action that ultimately lead to the parent '464 application being held abandoned.

Notwithstanding Counsels' filing of the instant continuation application, Counsel remains empowered to act on behalf of Inventor Lee and Assignee Dial2Go, Inc., and Counsel has neither successfully located Inventor Lee nor received any further communication or instruction from Inventor Lee. Inventor Lee's continued absence and lack of communication continues to render it unreasonably difficult for Counsel to

represent Inventor Lee and Assignee Dial2Go, Inc. in the instant application. It is on this basis that Counsel is requesting permission for withdrawal via the instant Request.

The last known address of Inventor Lee is:

Sung Lee
12 Fox Run Drive
Englewood, New Jersey 07631.

The last know address of Assignee, Dial2Go, Inc. is:

Dial2Go, Inc.
2 University Plaza Drive, Suite 201,
Hackensack, New Jersey 07601.

CONCLUSION

The originally empowered attorneys or agents of record, on behalf of Applicant, hereby requests, in the specific order as follows, that (1) the Notice Regarding Change of Power of Attorney mailed June 14, 2004 be vacated; (2) the Request for Withdrawal as Attorneys or Agents (37 CFR §§ 1.26 and 10.40(c)(1)(iv) be expunged from the application file; and (3) permission be approved for withdrawal of all of the attorneys and agents of record (Counsel) in the above-identified application prior to the mailing of the June 4, 2004 Notice Regarding Change of Power of Attorney.

AUTHORIZATION

The Director is hereby authorized to charge any additional fees which may be required for the timely consideration of this request for Withdrawal as Attorneys or Agents, or credit any over payment, to Deposit Account No. 13-4500, Order No. 4063-4001.

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

Dated: July 26, 2004

By:



Michael S. Marcus

Registration No. 31,727

SENDER'S ADDRESS:

MORGAN & FINNEGAN, L.L.P.
1775 Eye Street, NW, Suite 400
Washington, DC 20006
(202) 857-7887 (Telephone)
(202) 857-7929 (Facsimile)